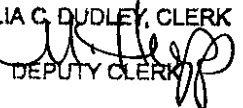


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA

FILED
for Roanoke
JAN 24 2011

JULIA C. DUDLEY, CLERK
BY:  DEPUTY CLERK

VINCE GILMER,
Plaintiff,

Civil Action No.7:10-cv-00527

v.

By: Hon. Jackson L. Kiser
Senior United States District Judge

DR. ASHAN, et al.,
Defendants.

MEMORANDUM OPINION

By Order entered December 20, 2010, the court assessed a \$350.00 filing fee and granted plaintiff fifteen (15) days from the date of the Order to forward to the court a statement of his assets and a report regarding his trust account for the six (6) months prior to November 2010, signed by each appropriate prison official where plaintiff was confined during that time so the court could determine a payment schedule. Plaintiff was advised that failure to return the required paperwork would result in dismissal of this action without prejudice.

Plaintiff filed an inmate account report of the six-month period prior to January 2011, not the six-month period prior to November 2010. Furthermore, plaintiff did not file certified records, which is a requirement to prevent an inmate from forging an official's signature and to verify financial data. Therefore, plaintiff did not comply with the conditional filing order, despite the warning that his action may be dismissed without prejudice for noncompliance, and the court cannot determine the appropriate filing fee assessment, pursuant to 28 U.S.C. § 1915. Accordingly, this action must be dismissed without prejudice for plaintiff's failure to pay the filing fee or properly document his application to proceed in forma pauperis after the court's order. Plaintiff may refile the complaint as a new and separate action at the time he can pay the \$350 filing fee or file the necessary documents to proceed in forma pauperis.

The Clerk is directed to send a copy of this order to plaintiff.

ENTER: This 24th day of January, 2011.


Senior United States District Judge